

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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New Amsterdam Project Management Humanitarian Foundation,

Plaintiff,

2:18-cv-01917-RCJ-EJY

Kevin B. Connolly, et al.,

Defendants.

ORDER

The Plaintiff won a judgment against the Defendants in the United States District Court for the Central District of California. In order to satisfy this judgment, the Plaintiff has had to pursue post-judgment discovery. In one such avenue of discovery, the Central District of California issued a subpoena on T-Mobile USA, Inc. (T-Mobile) with four requests to produce documents stored in Nevada. The first three requests are for the documents associated with Defendant Margaret Laughrin, Defendant Hartford Holding Corporation, and “Regina Trust”¹. The last request seeks information regarding the Nevada phone numbers associated with Defendant Laughrin. The requested information includes the following:

- a. Identify the name(s), address(es) and/or email address(es) of the subscriber(s);
- b. Identify the account number assigned to the Nevada Phone Number;
- c. Relate to payments received by You for the account of this Phone Number;
- d. Relate to the method or means of payments (i.e., credit card, wire transfer, check, etc.) received by You for the account of this Phone Number;
- e. Relate to account statements and invoices issued by You to the subscriber(s);
- f. Relate to records of phone calls made and received (including local, roaming and incoming call records); and
- g. Relate to numeric (**non-content**) detail records of text messages (including SMS), multimedia (including MMS) and other data transmission made and

¹ Regina Trust is a trust which Defendant Margaret Laughrin is both the settlor and beneficiary.

1 received (including any IP address assigned for each session or connection, and the
2 date and time the messages were sent and received).

3 In a meet and confer conference between T-Mobile and the Plaintiff, T-Mobile refused to
4 comply with the subpoena but agreed not to challenge a motion to compel. T-Mobile argued that
5 it cannot legally produce the information, because one of the number's is associated with a
6 California billing address, so California law applies and restricts production. T-Mobile relies on
7 two California statutes for its position. First, California Civil Procedure Code § 1985.3(f) provides:
8 “A subpoena duces tecum for personal records maintained by a telephone corporation which is a
9 public utility . . . shall not be valid or effective unless it includes a consent to release, signed by
10 the consumer whose records are requested, as required by Section 2891 of the Public Utilities
11 Code.” Second, California Public Utilities Code § 2891(a) provides in part: “No telephone . . .
12 corporation shall make available to any other person or corporation, without first obtaining the
13 residential subscriber’s consent, in writing, any of the following information: (1) The subscriber’s
14 personal calling patterns . . . [and] (2) [t]he residential subscriber’s credit or other personal
financial information”

15 The Plaintiff moves this Court to compel T-Mobile to produce the subpoenaed information
16 and documents, and T-Mobile did not respond. The Plaintiff correctly argues that the federal law
17 of subpoenas—not California state law applies. “[I]n federal question cases the clear weight of
18 authority and logic supports reference to federal law on the issue of the existence and scope of an
19 asserted privilege.” *Kerr v. U.S. Dist. Court for N. Dist. of California*, 511 F.2d 192, 197 (9th Cir.
20 1975), *aff’d*, 426 U.S. 394, 96 S. Ct. 2119, 48 L. Ed. 2d 725 (1976) (quoting *Heathman v. U.S.*
21 *Dist. Court for Cent. Dist. of California*, 503 F.2d 1032, 1034 (9th Cir. 1974)).

22 In fact, a California district court specifically held that the California statutes do not apply
23 to federally issued subpoenas. In *Kaur v. City of Lodi*, AT&T Mobility made a similar argument
24 based on the same two statutes, and the party seeking the production moved to compel compliance
25 with the subpoena. No. 2:14-cv-0828 TLN AC, 2016 WL 10679575, at *1 (E.D. Cal. Jan. 28,
26 2016). That court specifically noted that the statutory language is limited to California issued
27 subpoenas. *Id.* California Civil Procedure Code § 1985.3(a) defines subpoena as one that is “issued

1 or served in connection with any civil action or proceeding pursuant to this code.” Therefore, the
2 Court disagrees with T-Mobile’s position and grants the Plaintiff’s motion.

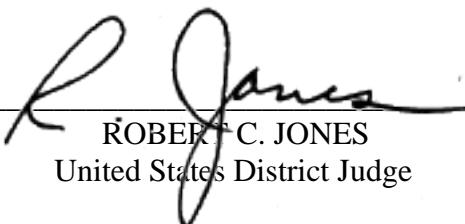
3 **CONCLUSION**

4 IT IS HEREBY ORDERED that the Plaintiff’s Motion to Compel Compliance re Subpoena
5 (ECF No. 1) is granted.

6 IT IS FURTHER ORDERED that T-Mobile USA, Inc. shall produce the requested
7 documents within twenty-one days of the filing of this order.

8 IT IS SO ORDERED.

9 **Dated this 26th day of August, 2019.**

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12 ROBERT C. JONES
13 United States District Judge
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